



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

June 21, 1961

Honorable J. W. Edgar  
Commissioner of Education  
Austin, Texas

Opinion No. WW-1078

Re: Whether the Texas Education Agency, by processing and evaluating the application for teacher certificates or permits authorized under Art. 2891b, V.C.S., other than transition certificates, performs all the duties contemplated by the statute and thereby earns the fees prescribed whether or not there is issuance of the certificate or permit sought.

Dear Mr. Edgar:

We have received your letter of May 30, 1961, in which the following questions are set forth:

"1. Does this State Agency, by processing and evaluating the applications for teacher certificates or permits authorized under Article 2891b, V.C.S. other than transition certificates, perform all the duties contemplated by the statute and thereby 'earn' the fees prescribed whether or not there is issuance of a certificate or permit sought?

"2. Should such prescribed fees forwarded with proper applications for teacher certificates or permits that may be on deposit in a suspense fund and all such prescribed fees which may be received in the future be deposited direct to the proper account in the State Treasury?"

You have called our attention to the following pertinent portions of the Teacher Certification Act of 1955 (Art. 2891b, V.C.S.):

"Section 3. . . . No applicant shall receive a teacher certificate of any class or kind, except as otherwise provided herein, without first depositing with the State Commissioner of Education the application fee prescribed to be paid under the provisions of this Act for the particular type or class of certificate requested. . . .

"Sec. 8. . . .

"The provisional certificate shall be permanent . . . An application fee of Two Dollars shall be paid by each applicant for the certificate provided for herein.

"Sec. 9. . . . The professional certificate shall be permanent . . . An application fee of Three Dollars shall be paid by each applicant for the certificate provided for herein.

"Sec. 11. An emergency permit to teach, valid for not more than one (1) scholastic year . . . An application fee of One Dollar shall be paid by an applicant for the permit authorized herein, and for each necessary renewal thereof.

"Sec. 13 (c). Any person who applies for a Texas teacher certificate on credentials from another State, . . . may be issued . . . an emergency permit. . . . Provided further, the applicant shall be required to pay a fee of Two Dollars for the permit authorized herein, and a further fee for the issuance of a valid Texas teacher certificate when he qualifies and makes application therefor, and in the amount provided in this Act.

"Sec. 12. Transition Certificate Issuance.

". . .

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"(7) . . . Provided further, that there shall be no fee charged for the application or issuance of the class of new (transition) certificate authorized to be issued under the subdivision of this section."

This office has long taken the position that teachers' certificate and permit application fees are earned by the Texas Education Agency when that agency processes the application. Attorney General's Opinion No. R-1839 (1949); Attorney General's Opinion No. O-7221 (1946). Although there have been a number of minor changes in the pertinent statutes since those opinions were rendered, none of them would seem to bear so directly upon this question as to warrant discussion. The answer to your first question is therefore "yes", that such fees are earned regardless of whether or not a certificate or permit is issued.

In answer to your second question, it is our opinion that the fees so collected should be deposited directly to the proper account in the State Treasury. Since the fees are earned even should no certificate or permit issue, there is no need for placing them in a suspense fund. Attorney General's Opinion No. R-1839 (1949) similarly dealt with this question.

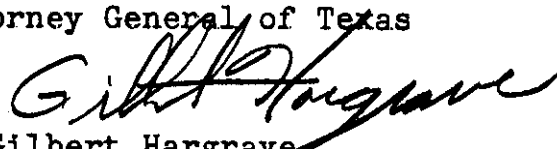
#### SUMMARY

The Texas Education Agency, by processing and evaluating applications for teachers' certificates and permits, becomes entitled to retain the application fees imposed by the Teacher Certification Act of 1955 (Art. 2891b, V.C.S.). Such application fees are not to be returned to the applicant if no certificate or permit is issued. They are to be deposited directly to the proper account in the State Treasury. The use of a suspense fund is not necessary.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By

  
Gilbert Hargrave

GH:hmc

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APPROVED:

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